In the Supreme Court of the State of Alaska

Native Village of Chignik Lagoon,

Appellant,

v.

State of Alaska, DHSS, OCS, et al.,

Appellees.

Trial Court Case No. **3PA-18-00134CN**

Supreme Court No. **S-18090**

Order
Supplemental Briefing

Date of Order: **5/6/2022**

Before: Winfree, Chief Justice, Maassen, Carney, Borghesan, and Henderson, Justices.

The Native Village of Chignik Lagoon has appealed from superior court orders finding that the child T.O. — identified as an Indian child for purposes of the Indian Child Welfare Act (ICWA) — is a member of the Native Village of Wales and transferring post-termination child-in-need-of-aid proceedings to the Wales tribal court. Chignik Lagoon argues that the superior court erred by finding that T.O. was a Wales tribal member. Chignik Lagoon also argues that the superior court erred by allowing Wales to intervene and move for the transfer of proceedings to its tribal court. Chignik Lagoon argues that the transfer order was not authorized by ICWA, that it lacked good cause, and that the superior court deprived Chignik Lagoon of due process by failing to adequately consider its arguments against the transfer.

The court requests supplemental briefing from the parties on the following issue. Assuming that the superior court did not err when it found that T.O. is a Wales tribal member for ICWA purposes, does Chignik Lagoon have standing to pursue its

other issues on appeal?[1] In other words, does a tribe that is not the Indian child's tribe for ICWA purposes have an interest in child-in-need-of-aid proceedings that would require the courts to consider its arguments against transfer of those proceedings to the tribal court of the Indian child's tribe?

Parties's simultaneous briefs in memorandum form, not to exceed 15 pages, are due on or before **5/23/2022**, and simultaneous replies, not to exceed ten pages, are due on or before **6/02/2022**.

Clerk of the Appellate Courts

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[1] We have recognized the proposition "that it is an appellate court's 'obligation to be sure that standing exists and to raise, sua sponte if need be, any deficiency.'" *State v. ACLU*, 978 P.2d 597, 614 n.106 (Alaska 1999) (quoting *San Francisco Drydock, Inc. v. Dalton*, 131 F.3d 776, 778 (9th Cir. 1997)). We also recognize that standing is not jurisdictional but rather is "a judicial rule of self-restraint." *Moore v. State*, 553 P.2d 8, 24 n.25 (Alaska 1976), *superseded by statute on other grounds*, Ch. 257,§ 3, SLA 1976, *as recognized in Sullivan v. Resisting Envtl. Destruction on Indigenous Lands*, 311 P.3d 625 (Alaska 2013).